

REMARKS

The above-identified patent application has been amended and Applicants respectfully request the Examiner to reconsider and again examine the claims as amended.

Claims 1-6, 8-27, 29-39, 44, 45, 47, and 49-51 are pending in the application. No claims are allowed. Claims 1-41, 44, 45, 47, and 49-51 are rejected. Claims 1 and 21 are amended herein. Claims 7, 28, 40, and 41 are canceled herein without prejudice. Claims 42-43, 46 and 48 were previously canceled. Claims 7 and 28 are objected to but would be allowable if rewritten in independent form, including limitations of the base claim and any intervening claims.

Telephone Communication

Applicant's Attorney would like to remind the Examiner of a brief telephone call that occurred during February 2010 between the Examiner and Applicant's Attorney. It was requested that the Examiner consider whether Claim 28 would be allowable without intervening Claim 26. The Examiner replied affirmatively. Thus, Applicants provide amended independent Claim 21 herein, which is the same as prior allowable Claim 28, but without the limitations of intervening Claim 26.

The Rejections under 35 U.S.C. §102(b)

The Examiner rejects Claims 40 under 35 U.S.C. §102(b) as being anticipated by Seibel (U.S. Patent Application no. 2001/0055462).

Claim 40 is canceled herein without prejudice. Thus Applicants submit that the rejection of Claim 40 is now moot and should be removed.

The Rejections under 35 U.S.C. §103(a)

Ntziachristos et al. in view of Seville and Freeman

The Examiner rejects Claims 1-6, 9-11, 13, 19-26, 29-30, 32, 38-39, 44-45, 47, and 49-51 under 35 U.S.C. §103(a) as being unpatentable over Ntziachristos et al. (International Publication number WO 02/041760 A2) in view of Seville (U.S. Patent Publication number 2002/0089658 A1) and Freeman (U.S. Patent Publication number 2003/0124244 A1).

Claim 1 is amended herein to include the limitations of allowable Claim 7 and Claim 21 is amended herein to include the limitations of allowable Claim 28. Thus, Applicants submit that Claims 1 and 21 are allowable over the cited references.

By making this amendment, Applicants do not capitulate to the Examiner assertions, arguments, or reasons for allowance with regard to Claims 7 and 28 (now independent Claims 1 and 21) or with regard to any dependent claims here or below. Instead, Applicants amend Claims 1 and 21 herein merely to move the case forward.

Claims 2-6, 9-11, 13, 19-20, 44, 47, and 50 depend from, and thus include the limitations of Claim 1. Thus, Applicants submit that Claims 2-6, 9-11, 13, 19-20, 44, 47, and 50 are patentably distinct over the cited reference at least for the reasons discussed above in conjunction with Claim 1.

Claims 22-26, 29-30, 32, 38-39, 45, 49, and 51 depend from, and thus include the limitations of Claim 21. Thus, Applicants submit that Claims 22-26, 29-30, 32, 38-39, 45, 49, and 51 are patentably distinct over the cited reference at least for the reasons discussed above in conjunction with Claim 21.

In view of the above, Applicants submit that the rejection of Claims 1-6, 9-11, 13, 19-26, 29-30, 32, 38-39, 44-45, 47, and 48-51 under 35 U.S.C. §103(a) should be removed.

Ntziachristos et al. in view of Seville and Takada

The Examiner rejects Claims 8, 12, 14-18, 27, 31, and 33-37 under 35 U.S.C. §103(a) as being unpatentable over Ntziachristos et al. in view of Seville and Takada (EP Patent number EP 0336208 A1).

Claims 8, 12, and 14-18 depend from, and thus include the limitations of Claim 1. Thus, Applicants submit that Claims 8, 12, and 14-18 are patentably distinct over the cited reference at least for the reasons discussed above in conjunction with Claim 1.

Claims 27, 31, and 33-37 depend from, and thus include the limitations of Claim 21. Thus, Applicants submit that Claims 27, 31, and 33-37 are patentably distinct over the cited reference at least for the reasons discussed above in conjunction with Claim 21.

In view of the above, Applicants submit that the rejection of Claims 8, 12, 14-18, 27, 31, and 33-37 under 35 U.S.C. §103(a) should be removed.

In View of Seibel

The Examiner rejects Claim 41 under 35 U.S.C. §103(a) as being unpatentable over Seibel (U.S. patent Publication number 2001/0055462 A1)

Claim 41 is canceled herein without prejudice.

In view of the above, Applicants submit that the rejection of Claim 41 under 35 U.S.C. §103(a) should be removed.

The Claim Objections

The Examiner objects to Claims 7 and 28 as being dependent upon a rejected base claim, but indicates that Claims 7 and 28 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

Claims 1 and 21 are amended as described above. As described above, Claim 21 is amended herein to include the limitation of Claim 28, but not to include the limitations of intervening Claim 26.

In view of the above Amendment and Remarks, Applicants submit that the claims and the entire case are in condition for allowance and should be sent to issue and such action is respectfully requested.

The Examiner is respectfully invited to telephone the undersigning attorney if there are any questions regarding this Amendment or this application.

The Assistant Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 500845, including but not limited to, any charges for extensions of time under 37 C.F.R. §1.136.

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Respectfully submitted,

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